

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

OPERATING INSTRUCTION
NUMBER 41

October 21, 2011

CRIME VICTIM'S COMPENSATION PROGRAM

PURPOSE: To establish policies and procedures governing the Crime Victim's Reparations Program.

1. **SCOPE:** Applicable to the Crime Victim's Reparations program staff, Hearing Officer, and Committee members.
2. **REFERENCE:** Nebraska Statute 81-1801 through 81-1842 and Rules and Regulation, Title 80, Chapters 1-7.
3. **GENERAL:** These statutes and rules and regulations provide guidelines for the making of decisions for submitted claims for compensation from crime victims.
4. **PROGRAM PROCEDURES:**
 - A. All required forms, an instruction sheet and a program brochure shall be mailed or given to any individual requesting such information. Staff will provide information regarding the Crime Victim's Reparations program and other service agencies as needed.
 - B. When a claim for compensation is received, staff shall set up a file for the victim, in a secure location.
 - C. Staff shall check the claim for completeness and for submission of all required documentation to support the claim as defined by the Crime Victim's Reparations Statutes and Rules and Regulations.

Staff shall request in writing any additional information needed for the completion of the submitted claim form.
 - D. Staff shall request the law enforcement report regarding the incident for which the claim for compensation has been submitted.

- E. Staff shall review and verify each claim for compensation. This review shall consist of verification of all items for which compensation is being claimed, a thorough review of the law enforcement report, verification with the prosecutor's office regarding the disposition of the case if a suspect was apprehended, and any other activities necessary to complete a thorough review of the claim.
- F. Once the review is completed a typewritten Review Summary of the case shall be prepared containing all pertinent facts. This Review Summary shall be provided to the Crime Victim's Reparations Hearing Officer. The Hearing Officer shall consider the claim for compensation and render a decision based on Statutes 81-1801 to 81-1842 and Rules and Regulations, Title 80, Chapters 1-7.

The Hearing Officer shall notify the Crime Victim's Reparations staff in writing of the decision for the claim for compensation. If the claim is denied, the Hearing Officer will provide the reason for the denial and substantiate such decision based upon the appropriate governing statute and rule and regulation.

- G. Staff will prepare a letter to the claimant regarding the Hearing Officer's decision.

If the claim is approved, the letter will identify the awarded payees and amounts awarded to each.

If all or part of the claim is denied, the letter will state the reason for such denial and the supporting statutes and rules and regulations for said decision.

The letter shall also provide information regarding the appeal process and information about the Internal Revenue Service's ruling on compensation awards.

After the letter has been mailed to a claimant, payments for approved claims shall be processed.

- 5. **DISCLOSURES:** Information contained in the victim's file shall not be disclosed to any person, agency or entity except for information required to be disclosed in the biennial report as defined in Statute 81-1833. Pursuant to Section 81-1842, the name of any victim of a sexual assault appearing in information or records of the Crime Victim's Reparations Committee shall not be made public.

Other non-public information includes:

- a. Information compiled while investigating a claim for compensation, including medical history information and police reports;

- b. Notes and memoranda generated by members of the Committee or hearing officers, having a bearing on a decision, but not actually a part of a decision.
- 6. **APPEALS:** Appeals shall be conducted as per Statute 81-1809, 81-1810 and Rules and Regulations Title 80, Chapter 5 and Chapter 6. The Crime Victim's Reparations Committee shall be notified of the hearing dates and provided all pertinent information regarding the claim for compensation.
- 7. **ELIGIBILITY CONSIDERATIONS:** If a victim is eligible under the governing Statutes 81-1801 - 81-1842 and Rules and Regulations, Title 80, Chapters 1-7, the Hearing Officer and Committee shall also consider the following issues in the determination of claims for compensation.
 - A. Child Abuse Victims: The Crime Victim's Reparations Hearing Officer and Committee should take into consideration that an abused child may not report the incident(s) to parents or guardians within the three-day time period as required in Statute 81-1821. The Hearing Officer and Committee may consider the three-day reporting requirement to law enforcement to begin on the day the parent or guardian becomes aware of the incident(s).
 - B. In considering claims for compensation for victims, the Hearing Officer or Committee shall not deny claims based solely on the fact that the victim and offender live together.

The Hearing Officer and Committee shall further strive to prevent unjust enrichment to the offender without penalizing the innocent victim. Unjust enrichment determinations shall not be based solely on the presence of the offender in the household at the time of the award.

The victim shall not be penalized for the failure of the offender to meet legal obligations to pay for the cost of the victim's recovery.

The Hearing Officer and Committee shall consider the offender's legal responsibility to pay for the victim's recovery as well as the offender's ability to pay for the victim's recovery and if payment is likely.

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